

AMENDED IN ASSEMBLY MARCH 31, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 637**

**Introduced by Assembly Member Huff**

February 17, 2005

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~~An act to amend Section 13369 of the Vehicle Code, as added by Section 12.5 of Chapter 952 of the Statutes of 2004, relating to~~ *An act to amend Sections 13369, 13370, 13371, 13372, 13373, 13374, 13376, and 13378 of the Vehicle Code, relating to vehicles.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 637, as amended, Huff. Vehicles: driver's license endorsements: certificates.

*(1) Existing law requires the Department of Motor Vehicles to refuse to issue or renew, or to revoke or suspend an ambulance driver certificate under certain, listed circumstances. Existing law authorizes the person involved in an ambulance driver certificate refusal, suspension, or revocation to submit a written request for a hearing to the department within 10 days after receiving the notification of refusal, revocation, or suspension.*

*This bill, instead, would authorize the request for a hearing to be submitted within 15 days after the notice has been mailed by the department. Failure to request a hearing within that time period would constitute waiver of the right to a hearing.*

*The bill would authorize reapplication following a refusal or revocation to be made one year after the effective date of the refusal or revocation, except as specified. The bill would authorize reapplication following a refusal or revocation to be made if a felony or misdemeanor conviction supporting the refusal or revocation is reversed or dismissed, as specified.*

(2) Existing law requires the department to revoke, or refuse to issue or renew certain listed driver's certificates for 3 years if the certificate holder has received a positive test result for a controlled substance, as specified, following an opportunity to challenge the validity of the testing.

This bill, additionally, would authorize the department to revoke or refuse to issue or renew the listed certificates if the certificate holder refuses to submit to a test for, or fails to comply with the testing requirements for, controlled substances. The bill would delete the provision requiring an opportunity to challenge the validity of the testing.

~~Existing law prohibits a person from operating specified vehicles without possessing certain endorsements or certificates issued by the Department of Motor Vehicles. The department is required to refuse to issue or renew, or to revoke the certificate or endorsement of any person who meets certain, listed conditions.~~

(3) This bill would *also* make technical, nonsubstantive, and conforming changes in these provisions of existing law.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 13369 of the Vehicle Code, as added by
- 2 Section 12.5 of Chapter 952 of the Statutes of 2004, is amended
- 3 to read:
- 4 13369. (a) This section applies to the following
- 5 endorsements and certificates:
- 6 (1) Passenger transportation vehicle.
- 7 (2) Hazardous materials.
- 8 (3) Schoolbus.
- 9 (4) School *pupil* activity bus.
- 10 (5) Youth bus.
- 11 (6) General public paratransit vehicle.
- 12 (7) Farm labor vehicle.
- 13 (8) Vehicle used for the transportation of developmentally
- 14 disabled persons.
- 15 (b) The department shall refuse to issue or renew, or shall
- 16 revoke the certificate or endorsement of any person who meets
- 17 the following conditions:

1 (1) Within ~~the preceding~~ three years, has committed any  
2 violation that results in a conviction assigned a violation point  
3 count of two or more, as defined in Sections 12810 and 12810.5.  
4 The department may not refuse to issue or renew, nor may it  
5 revoke, a person's hazardous materials or passenger  
6 transportation vehicle endorsement if the violation leading to the  
7 conviction occurred in the person's private vehicle and not in a  
8 commercial motor vehicle, as defined in Section 15210.

9 (2) Within ~~the preceding~~ three years, has had his or her driving  
10 privilege suspended, revoked, or on probation for any reason  
11 involving unsafe operation of a motor vehicle. The department  
12 may not refuse to issue or renew, nor may it revoke, a person's  
13 passenger transportation vehicle endorsement if the person's  
14 driving privilege has, within ~~the preceding~~ three years, been  
15 placed on probation only for any reason involving unsafe  
16 operation of a motor vehicle.

17 (3) Notwithstanding paragraphs (1) and (2), does not meet the  
18 qualifications for issuance of a hazardous materials endorsement  
19 set forth in Parts 383, 384, and 1572 of Title 49 of the Code of  
20 Federal Regulations.

21 (c) The department may refuse to issue or renew, or may  
22 suspend or revoke the certificate or endorsement of any person  
23 who meets any of the following conditions:

24 (1) Within ~~the preceding~~ 12 months, has been involved as a  
25 driver in three accidents in which the driver caused or  
26 contributed to the causes of the accidents.

27 (2) Within ~~the preceding~~ 24 months, as a driver, caused or  
28 contributed to the cause of an accident resulting in a fatality or  
29 serious injury or serious property damage in excess of seven  
30 hundred fifty dollars (\$750).

31 (3) Has violated any provision of this code, or any rule or  
32 regulation pertaining to the safe operation of a vehicle for which  
33 the certificate or endorsement was issued.

34 (4) Has violated any restriction of the certificate, endorsement,  
35 or commercial driver's license.

36 (5) Has knowingly made a false statement or ~~concealed~~ *failed*  
37 *to disclose* a material fact on an application for a certificate or  
38 endorsement.

39 (6) Has been determined by the department to be a negligent  
40 or incompetent operator.

1 (7) Has demonstrated irrational behavior to the extent that a  
2 reasonable and prudent person would have reasonable cause to  
3 believe that the applicant's ability to perform the duties of a  
4 driver may be impaired.

5 (8) Excessively or habitually uses, or is addicted to, alcoholic  
6 beverages, narcotics, or dangerous drugs.

7 (9) Does not meet the minimum medical standards established  
8 or approved by the department.

9 (d) The department may cancel the certificate or endorsement  
10 of any driver who meets any of the following conditions:

11 (1) Does not have a valid driver's license of the appropriate  
12 class.

13 (2) Has requested cancellation of the certificate or  
14 endorsement.

15 (3) Has failed to meet any of the requirements for issuance or  
16 retention of the certificate or endorsement, including, but not  
17 limited to, payment of the proper fee, submission of an  
18 acceptable medical report and fingerprint cards, and compliance  
19 with prescribed training requirements.

20 (4) Has had his or her driving privilege suspended or revoked  
21 for a cause involving other than the safe operation of a motor  
22 vehicle.

23 ~~(e) With regard to a violation, accident, or departmental action~~  
24 ~~that occurred prior to January 1, 1991, subdivision (a) and~~  
25 ~~paragraphs (1), (2), and (3) of subdivision (b) do not apply to a~~  
26 ~~driver holding a valid passenger transport or hazardous materials~~  
27 ~~endorsement, or a valid class 1 or class 2 driver's license who is~~  
28 ~~applying to convert that driver's license to a class A or class B~~  
29 ~~driver's license with a passenger transport or hazardous materials~~  
30 ~~endorsement, if the driver submits proof that he or she is~~  
31 ~~currently employed operating vehicles requiring the~~  
32 ~~endorsement, or a valid class 3 driver's license who is applying~~  
33 ~~for a class C driver's license with a hazardous materials~~  
34 ~~endorsement if the driver submits proof that he or she is currently~~  
35 ~~employed operating vehicles requiring the endorsement.~~

36 ~~(f) Subdivision (e) does not apply to drivers applying for a~~  
37 ~~schoolbus, school pupil activity bus, youth bus, general public~~  
38 ~~paratransit vehicle, or farm labor vehicle certificate.~~

39 ~~(g)~~

1 (e) (1) Reapplication following ~~denial~~ *refusal* or revocation  
2 under subdivision (b) or (c) may be made after a period of not  
3 less than one year from the effective date of denial or revocation,  
4 except in cases where a longer period of suspension or revocation  
5 is required by law.

6 (2) Reapplication following cancellation under subdivision ~~(e)~~  
7 *(d)* may be made at any time without prejudice.

8 *SEC. 2. Section 13370 of the Vehicle Code is amended to*  
9 *read:*

10 13370. (a) The department shall ~~deny or refuse to issue or~~  
11 *shall* revoke a schoolbus, school pupil activity bus, general  
12 public paratransit vehicle, or youth bus driver certificate, or a  
13 certificate for a vehicle used for the transportation of  
14 developmentally disabled persons, if any of the following causes  
15 apply to the applicant or certificate holder:

16 (1) Has been convicted of a sex offense as defined in Section  
17 44010 of the Education Code.

18 (2) Has been convicted, within ~~the two years preceding the~~  
19 *application date*, of an offense specified in Section 11361.5 of the  
20 Health and Safety Code.

21 (3) Has failed to meet prescribed training requirements for  
22 certificate issuance.

23 (4) Has failed to meet prescribed testing requirements for  
24 certificate issuance.

25 (5) Has been convicted of a violent felony listed in subdivision  
26 (c) of Section 667.5 of the Penal Code, or a serious felony listed  
27 in subdivision (c) of Section 1192.7 of the Penal Code. This  
28 paragraph shall not be applied to revoke a license that was valid  
29 on January 1, 2005, unless the certificate holder is convicted for  
30 an offense that is committed on or after that date.

31 (b) The department may ~~deny, suspend, or refuse to issue or~~  
32 *renew, or may suspend or* revoke a schoolbus, school pupil  
33 activity bus, general public paratransit vehicle, or youth bus  
34 driver certificate, or a certificate for a vehicle used for the  
35 transportation of developmentally disabled persons if any of the  
36 following causes apply to the applicant or certificate holder:

37 (1) Has been convicted of a crime specified in Section 44424  
38 of the Education Code within ~~the seven years preceding the~~  
39 *application date*. This paragraph does not apply if denial is  
40 mandatory.

1 (2) Has committed an act involving moral turpitude.

2 (3) Has been convicted of an offense, not specified in this  
3 section and other than a sex offense, that is punishable as a  
4 felony, within the seven years ~~preceding the application date~~.

5 (4) Has been dismissed as a driver for a cause relating to pupil  
6 transportation safety.

7 (5) Has been convicted, within the seven years ~~preceding the~~  
8 ~~application date~~, of an offense relating to the use, sale,  
9 possession, or transportation of narcotics, habit-forming drugs, or  
10 dangerous drugs, except as provided in paragraph (3) of  
11 subdivision (a).

12 (c) (1) Reapplication following ~~denial~~ *refusal* or revocation  
13 under paragraph (1), (2), or (3) of subdivision (a) or (b) may be  
14 made after a period of not less than one year ~~from~~ *after* the  
15 effective date of ~~denial~~ *refusal* or revocation.

16 (2) Reapplication following ~~denial~~ *refusal* or revocation under  
17 paragraph (4) of subdivision (a) may be made after a period of  
18 not less than 45 days ~~from~~ *after* the date of the applicant's third  
19 testing failure.

20 (3) An applicant or holder of a certificate may reapply for a  
21 certificate whenever a felony or misdemeanor conviction is  
22 reversed or dismissed. A termination of probation and dismissal  
23 of charges pursuant to Section 1203.4 of the Penal Code or a  
24 dismissal of charges pursuant to Section 1203.4a of the Penal  
25 Code is not a dismissal for purposes of this section.

26 *SEC. 3. Section 13371 of the Vehicle Code is amended to*  
27 *read:*

28 13371. This section applies to schoolbus, school pupil  
29 activity bus, youth bus, general public paratransit vehicle  
30 certificates, and a certificate for a vehicle used for the  
31 transportation of developmentally disabled persons.

32 (a) Any driver or applicant who has received a notice of ~~denial~~  
33 *refusal*, suspension, or revocation, may, within 15 days ~~of~~ *after*  
34 the mailing date, submit to the department a written request for a  
35 hearing. Failure to demand a hearing within 15 days is a waiver  
36 of the right to a hearing.

37 (1) Upon receipt by the department of the hearing request, the  
38 department may stay the action until a hearing is conducted and  
39 the final decision has been rendered by the Certificate Action  
40 Review Board pursuant to paragraph (2) of subdivision (d). The

1 department shall not stay an action when there is reasonable  
2 cause to believe the stay would pose a significant risk to the  
3 safety of pupils being transported in a schoolbus, school pupil  
4 activity bus, youth bus, or persons being transported in a general  
5 public paratransit vehicle.

6 (2) An applicant or driver is not entitled to a hearing whenever  
7 the action by the department is made mandatory by this article or  
8 any other applicable law or regulation except where the cause for  
9 ~~denial~~ *refusal* is based on failure to meet medical standards or  
10 excessive and habitual use of or addiction to alcoholic beverages,  
11 narcotics, or dangerous drugs.

12 (b) The department shall appoint a hearing officer to conduct  
13 the hearing in accordance with Section 14112. After the hearing,  
14 the hearing officer shall prepare and submit findings and  
15 recommendations to the department.

16 (c) The department shall mail, as specified in Section 22, a  
17 copy of the hearing officer's findings and recommendations to  
18 the driver or applicant and to the driver or applicant's hearing  
19 representative, either of whom may file a statement of exception  
20 to the findings and recommendations within 24 days after the  
21 mailing date.

22 (d) (1) The Certificate Action Review Board consists of the  
23 following three members: a chairperson appointed by the director  
24 of the department, a member appointed by the Commissioner of  
25 the California Highway Patrol, and a member appointed by the  
26 Superintendent of Public Instruction.

27 (2) After a hearing, the board shall review the findings and  
28 recommendations of the hearing officer, and any statement of  
29 exception, and make a decision concerning disposition of the  
30 action taken by the department, which decision shall be final. At  
31 this stage, no evidence shall be heard that was not presented at  
32 the hearing, unless the person wishing to present the new  
33 evidence establishes, to the satisfaction of the board, that it could  
34 not have been obtained with due diligence prior to the hearing.

35 *SEC. 4. Section 13372 of the Vehicle Code is amended to*  
36 *read:*

37 13372. (a) The department shall ~~deny~~ *refuse to issue or*  
38 *renew, or shall suspend or revoke* an ambulance driver certificate  
39 if any of the following apply to the applicant *or certificate*  
40 *holder:*

1 (1) Is required to register as a sex offender under Section 290  
2 of the Penal Code for any offense involving force, violence,  
3 threat, or intimidation.

4 (2) Habitually or excessively uses or is addicted to narcotics or  
5 dangerous drugs.

6 (3) Is on parole or probation for any felony, theft, or any crime  
7 involving force, violence, threat, or intimidation.

8 (b) The department may ~~deny~~ *refuse to issue or renew, or may*  
9 *suspend or revoke* an ambulance driver certificate if any of the  
10 following apply to the applicant *or certificate holder*:

11 (1) Has been convicted ~~during the preceding~~ *within* seven  
12 years of any offense punishable as a felony or has been convicted  
13 during that period of any theft.

14 (2) Has committed any act involving moral turpitude,  
15 including fraud or intentional dishonesty for personal gain,  
16 within ~~the preceding~~ seven years.

17 (3) Habitually and excessively uses intoxicating beverages.

18 (4) Has been convicted within ~~the preceding~~ seven years of  
19 any offense relating to the use, sale, possession, or transportation  
20 of narcotics or addictive or dangerous drugs, or of any  
21 misdemeanor involving force, violence, threat, or intimidation.

22 (5) Is on probation to the department for a cause involving the  
23 unsafe operation of a motor vehicle.

24 (6) Within ~~the three years immediately preceding the~~  
25 ~~application~~ has had his or her driver's license suspended or  
26 revoked by the department for a cause involving the unsafe  
27 operation of a motor vehicle, or, within the same period, has been  
28 convicted of any of the following:

29 (A) Failing to stop and render aid in an accident involving  
30 injury or death.

31 (B) Driving under the influence of intoxicating liquor, any  
32 drug, or under the combined influence of intoxicating liquor and  
33 any drug.

34 (C) Reckless driving, or reckless driving involving bodily  
35 injury.

36 (7) Has knowingly ~~falsified or failed to disclose~~ *made a false*  
37 *statement or failed to disclose* a material fact in his ~~and~~ *or* her  
38 application. ~~Applicants refused certification under this provision~~  
39 ~~shall not be issued an ambulance driver certificate within 12~~  
40 ~~months of that refusal.~~



(8) Has been involved as a driver in any motor vehicle accident causing death or bodily injury or in three or more motor vehicle accidents ~~during the preceding one-year period~~ *within one year.*

(9) Does not meet minimum medical standards specified in this code or in regulations adopted pursuant to this code.

(10) Has demonstrated irrational behavior or incurred a physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that the ability to perform the duties normally expected of an ambulance driver may be impaired.

(11) Has violated any provision of this code or any rule or regulation adopted by the Commissioner of the California Highway Patrol relating to the operation of emergency ambulances ~~during the preceding one-year period~~ *within one year.*

(12) Has committed any act that warrants dismissal, as provided in Section 13373.

~~(c) The department may revoke or suspend the ambulance driver certificate of any person who gives any cause, before or after issuance of the certificate, for either mandatory or discretionary refusal of certification.~~*(1) Reapplication following refusal or revocation under subdivision (a) or (b) may be made after a period of not less than one year after the effective date of the refusal or revocation, except in cases where a longer period of refusal, suspension, or revocation is required by law.*

*(2) Reapplication following refusal or revocation under subdivision (a) or (b) may be made if a felony or misdemeanor conviction supporting the refusal or revocation is reversed or dismissed. A termination of probation and dismissal of charges under Section 1203.4 of the Penal Code or a dismissal of charges under Section 1203.4a of the Penal Code is not a dismissal for purposes of this section.*

SEC. 5. Section 13373 of the Vehicle Code is amended to read:

13373. The receipt of satisfactory evidence of any violation of Article 1 (commencing with Section 1100) of Subchapter 5 of Chapter 2 of Title 13 of the California Code of Regulations, the Vehicle Code, or any other applicable law that would provide grounds for ~~denial~~ *refusal*, suspension, or revocation of an

1 ambulance driver's certificate or evidence of an act committed  
2 involving intentional dishonesty for personal gain or conduct  
3 contrary to justice, honesty, modesty, or good morals, may be  
4 sufficient cause for the dismissal of any ambulance driver or  
5 attendant. Dismissal of a driver or attendant under this section  
6 shall be reported by the employer to the Department of Motor  
7 Vehicles at Sacramento within 10 days.

8 *SEC. 6. Section 13374 of the Vehicle Code is amended to*  
9 *read:*

10 13374. (a) ~~Whenever the department refuses to issue or~~  
11 ~~renew, or suspends or revokes, an ambulance driver certificate~~  
12 ~~for any cause, the person involved may, within 10 days after~~  
13 ~~receiving notification of the action, submit~~ *An applicant for, or*  
14 *the holder of, an ambulance driver certificate who has received a*  
15 *notice of refusal, suspension, or revocation may submit, within*  
16 *15 days after the notice has been mailed by the department, a*  
17 *written request for a hearing. Upon receipt of the request, the*  
18 *department shall appoint a referee who shall conduct an informal*  
19 *hearing in accordance with Section 14104. Failure to request a*  
20 *hearing within 10 15 days after receiving a the notice given under*  
21 ~~this section~~ *has been mailed by the department is a waiver of the*  
22 *right to a hearing. A request for a hearing shall not operate to*  
23 *stay the action for which notice is given.*

24 (b) Upon conclusion of an informal hearing, the referee shall  
25 prepare and submit findings and recommendations through the  
26 department to a committee of three members one each appointed  
27 by the Director of the Emergency Medical Service Authority, the  
28 director, and the Commissioner of the California Highway Patrol  
29 with the appointee of the Commissioner of the California  
30 Highway Patrol serving as chairperson. After a review of the  
31 findings and recommendations, the committee shall render a final  
32 decision on the action taken, and the department shall notify the  
33 person involved of the decision.

34 *SEC. 7. Section 13376 of the Vehicle Code is amended to*  
35 *read:*

36 13376. (a) ~~The department shall revoke a schoolbus, school~~  
37 ~~pupil activity bus, youth bus, or general public paratransit driver~~  
38 ~~certificate, and shall deny an application for that certificate, for~~  
39 ~~any of the following causes:~~ *This section applies to the following*  
40 *certificates:*

1 (1) *Schoolbus.*

2 (2) *School pupil activity bus.*

3 (3) *Youth bus.*

4 (4) *General public paratransit vehicle.*

5 (5) *Vehicle used for the transportation of developmentally*  
6 *disabled persons.*

7 ~~(1) The applicant or certificate holder has been convicted of~~  
8 ~~any sex offense as defined in Section 44010 of the Education~~  
9 ~~Code.~~

10 ~~(2) The applicant has, within the three years preceding the~~  
11 ~~application date, either been convicted of a violation of Section~~  
12 ~~20001, 23103, 23104, 23152, or 23153, or has his or her driving~~  
13 ~~privilege suspended, revoked, or placed on probation by the~~  
14 ~~department for a cause involving the safe operation of a motor~~  
15 ~~vehicle.~~

16 ~~(3) The applicant has, within the two years preceding the~~  
17 ~~application date, been convicted of any offense specified in~~  
18 ~~Section 11361.5 of the Health and Safety Code.~~

19 ~~(4) The applicant has failed to meet the prescribed testing~~  
20 ~~requirements for issuance of the certificate.~~

21 (b) (1) The department shall revoke a certificate listed in  
22 subdivision (a), ~~following an opportunity to challenge the~~  
23 ~~validity of the testing described in this paragraph,~~ for three years  
24 if the certificate holder ~~has received a positive test result~~ *refuses*  
25 *to submit to a test for, fails to comply with the testing*  
26 *requirements for, or receives a positive test* for a controlled  
27 substance, as specified in Part 382 (commencing with Section  
28 382.101) of Title 49 of the Code of Federal Regulations and  
29 Section 34520. However, the department shall not revoke a  
30 certificate under this paragraph if the certificate holder is in  
31 compliance with any rehabilitation or return to duty program that  
32 is imposed by the employer that meets the controlled substances  
33 and alcohol use and testing requirements set forth in Part 382  
34 (commencing with Section 382.101) of Title 49 of the Code of  
35 Federal Regulations. *The driver shall be allowed to participate in*  
36 *a rehabilitation or return to duty program only once within a*  
37 *three-year period. The employer or program shall report any*  
38 *subsequent positive test result or drop from the program to the*  
39 *department on a form approved by the department.*

1 (2) If an applicant ~~receives a positive test result and has been~~  
2 ~~provided an opportunity to challenge the validity of the test~~  
3 ~~refuses to submit to a test for, fails to comply with the testing~~  
4 ~~requirements for, or receives a positive test for a controlled~~  
5 ~~substance, the department shall deny~~ refuse the application for a  
6 certificate listed in subdivision (a) for three years from the date  
7 of the confirmed positive test result.

8 (3) The carrier that requested the test shall report the *refusal,*  
9 *failure to comply, or* positive test result to the department not  
10 later than five days after receiving notification of the test result  
11 on a form approved by the department.

12 (4) The department shall maintain a *record of any action taken*  
13 *for a refusal, failure to comply, or* positive test result ~~reported~~  
14 ~~under paragraph (3) in the driving record of the applicant or~~  
15 ~~certificate holder for three years from the date the department~~  
16 ~~receives the report of the refusal, failure to comply, or positive~~  
17 ~~test result.~~

18 (c) (1) The department may temporarily suspend a schoolbus,  
19 school pupil activity bus, youth bus, or general public paratransit  
20 driver certificate, or temporarily withhold issuance of a  
21 certificate to an applicant, if the holder or applicant is arrested for  
22 or charged with any sex offense, as defined in Section 44010 of  
23 the Education Code.

24 (2) Upon receipt of a notice of temporary suspension, or of the  
25 department's intent to withhold issuance, of a certificate, the  
26 certificate holder or applicant may request a hearing within 10  
27 days of the effective date of the department's action.

28 (3) The department shall, upon request of the holder of, or  
29 applicant for, a certificate, within 10 working days of the receipt  
30 of the request, conduct a hearing on whether the public interest  
31 requires suspension or withholding of the certificate pursuant to  
32 paragraph (1).

33 (4) If the charge is dismissed or results in a finding of not  
34 guilty, the department shall immediately terminate the  
35 suspension or resume the application process, and shall expunge  
36 the suspension action taken pursuant to this subdivision from the  
37 record of the applicant or certificate holder.

38 (d) An applicant or holder of a certificate may reapply for a  
39 certificate whenever a felony or misdemeanor conviction is  
40 reversed or dismissed. A termination of probation and dismissal

1 of charges pursuant to Section 1203.4 of the Penal Code or a  
2 dismissal of charges pursuant to Section 1203.4a of the Penal  
3 Code is not a dismissal for purposes of this section.

4 (e) The determination of the facts pursuant to this section is a  
5 civil matter which is independent of the determination of the  
6 person's guilt or innocence, has no collateral estoppel effect on a  
7 subsequent criminal prosecution, and does not preclude the  
8 litigation of the same or similar facts in a criminal proceeding.

9 *SEC. 8. Section 13378 of the Vehicle Code is amended to*  
10 *read:*

11 13378. (a) Any applicant for, or holder of, a tow truck driver  
12 certificate who has received a notice of ~~denial~~ *refusal* or  
13 revocation, may *submit to the department*, within 15 days ~~of after~~  
14 the mailing of the notice, ~~submit to the department~~ a written  
15 request for a hearing. Failure to request a hearing, in writing,  
16 within 15 days is a waiver of the right to a hearing.

17 (b) Upon receipt by the department of the hearing request, the  
18 department may stay the action until a hearing is conducted and  
19 the final decision is made by the hearing officer. The department  
20 shall not stay the action when there is reasonable cause to believe  
21 that the stay would pose a threat to a member of the motoring  
22 public who may require the services of the tow truck driver in  
23 question.

24 (c) An applicant for, or a holder of, a tow truck driver  
25 certificate, whose certificate has been ~~denied~~ *refused* or revoked,  
26 is not entitled to a hearing whenever the action by the department  
27 is made mandatory by this article or any other applicable law or  
28 regulation.

29 (d) Upon receipt of a request for a hearing, and when the  
30 requesting party is entitled to a hearing under this article, the  
31 department shall appoint a hearing officer to conduct a hearing in  
32 accordance with Section 14112.